

ATTACHMENT B

REMARKS

By this amendment, Applicant has amended the application to show clearly that the compositions of the claimed invention are not disclosed or suggested in the newly cited prior art which does not relate to or suggest the combination of human serum albumin and a cleansing agent, in particular a soap. By virtue of the present amendments, Claims 45-46 are now canceled without prejudice, and Claim 38 has been canceled and resubmitted as Claim 49 which is dependent upon independent Claim 39. In particular, Claim 39 has been amended to incorporate the consisting essentially language of prior Claim 45 which is now canceled without prejudice, and the claim language has been adjusted to make it clear that the invention is very distinct from the prior art and not disclosed or suggested by the prior references. In light of the amendments made and arguments provided below, Applicant submits that the claimed invention is patentable over the cited references and in condition for allowance.

In the Official Action, the Examiner rejected Claims 38-40, 43 and 45 under 35 U.S.C. §102 on the basis of the Mausner reference, US 524331, and rejected Claims 38-40, 43 and 45-46 under 35 U.S.C. § 103 on the basis of Mausner and Applicant's own patent, US 6,787,636 (which is not prior art to the present claims, as described further below). In short, the cited Mausner reference, which the Examiner acknowledges is not directed to a cleansing composition, discloses a skin cream composition using a mixture of serum proteins and hydrolyzed animal proteins. Indeed, a thorough review of this reference shows that there is **no reference whatsoever** to any use as a cleansing agent or to clean skin or hair.

The Examiner's only argument that Mausner somehow anticipates Applicant's claimed composition is the presence of two compounds which are used in microscopic amounts and which are clearly not used in amounts effective to cleanse skin or hair. In particular, the first compound identified by the Examiner is glyceryl arachidonate which the Examiner argues "has an inherent property as a skin cleansing agent" although there does not appear to be any support for this assertion. More importantly, the glyceryl arachidonate is used in **trace amounts** and thus **cannot** be acting as a cleansing agent. Indeed, the glyceryl arachidonate is one of three compounds in a complex which **totals** in composition only 0.7 to 0.9 percent (see Column 4, bottom), which indicates that the **total** glyceryl arachidonate is from **0.23 to 0.3 percent, or .0023 to .003** of the total skin cream composition.

The other compound that the Examiner alleges to be a cleansing agent is ascorbyl palmitate which the Examiner says "acts like a surfactant" and that "the surfactant, e.g., detergent is [sic] well-known cleansing agent absent factual indicia to the contrary." However, this compound is only present in trace amounts even more minute than that of the glyceryl arachnidonate and thus also **cannot** be acting as a cleansing agent. In fact, ascorbyl palmitate is used in an amount of **0.01 to 0.03 %**, (see Col. 5, top) which means that its **total** amount is from **0.0001 to 0.0003** of the skin cream composition. Clearly, whatever the property of ascorbyl palmitate, it clearly is **not** being used as a cleansing agent, nor is it present in amounts suitable for use as a cleansing agent. Even further, the Examiner's approach of connecting definitions (surfactant=detergent=soap) until arriving at a conclusion that Mausner discloses a cleansing composition is also improper in that simple dictionary definitions of these

terms fail to show the Examiner's alleged association. Indeed, the definition for "detergent" (see Appendix) indicates that it is something **other** than a soap. In short, it is clear that Mausner does **not** disclose or suggest the claimed hypoallergenic cleansing composition containing a cleansing agent in an amount effective to cleanse skin or hair.

Moreover, Mausner is also fundamentally different from the present invention wherein purely human serum albumin is combined with a cleansing agent to provide a safe and effective hypoallergenic cleansing composition. This differs distinctly from the Mausner composition which uses a complex mixture of proteins including serum proteins and hydrolyzed animal proteins from sources such as bovine, ovine or porcine (see Col. 6, bottom-Col. 7, top), which is then mixed with glycogen, sodium lactate, and other assorted ingredients (See Col. 7, top). The Mausner reference clearly does not disclose or suggest a composition which includes only human proteins, much less only human serum albumin, and thus also does not disclose the use of human serum albumin composition in accordance with the invention wherein pure human albumin will be absorbed into the skin to replenish natural serum albumin of the user. Instead, the large complex of proteins including animal proteins from Mausner clearly teach away from a human albumin composition as claimed because they provide numerous other non-human proteins which would interact and restrict the absorbance of human albumin into the skin as occurs in the claimed invention.

Accordingly, it is clear that Mausner does not disclose or suggest the present claimed hypoallergenic cleansing composition of the invention, nor are there any other cited references which can be added to Mausner to anticipate or make obvious the

present claims, and thus the Examiner's rejections on the basis of Mausner, insofar as applied to the claims as amended, are respectfully traversed and should be withdrawn.

In addition, as noted above, the Examiner rejected Claims 38-40, 43 and 45-46 on the basis of a combination of Mausner and Applicant's own US Patent No. 6,787,636. However, Applicant's own patent, which was issued on September 7, 2004, is simply not prior art under any provision of Section 102, and thus cannot be used in a rejection under Section 103. Accordingly, the Examiner's rejection on the basis of Applicant's own patent is moot and should be withdrawn.

Further, with regard to Claims 47-48 which were not changed by this amendment, the Examiner did not reject these claims on the basis of Mausner and thus the Examiner has already acknowledged that these Claims are not anticipated or made obvious in light of Mausner.

Finally, the Examiner in the Official Action also rejected Claims 39-43 and 45-48 under 35 U.S.C. §103 on the basis of the Nielsen article (June 2000) in combination with Carter US 6,787,636. As indicated above, this rejection is moot because Applicant's own US Patent 6,787,636 is not prior art under Section 102 and thus cannot be used as a reference against the present claims. Moreover, it is clear that Nielsen relates solely to the binding of bovine serum albumin with certain surfactants such as sodium laurel sulfate which are present in trace amounts and **not** usable as a cleansing agent, and thus does not disclose or suggest the invention as presently claimed directed to a hypoallergenic human serum albumin cleansing composition. Accordingly, this rejection is respectfully traversed and should be withdrawn.

In light of the amendments and arguments as set forth above, Applicants submit that the present application overcomes all prior rejections and has been placed in condition for allowance. Such action is earnestly solicited.

END OF REMARKS

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→ **sur-fac-tant** ^{n.} (sər-fāk'tənt, sŭr'fāk'-)

1. A surface-active substance.
2. A substance composed of lipoprotein that is secreted by the alveolar cells of the lung and serves to maintain the stability of pulmonary tissue by reducing the surface tension of fluids that coat the lung.

[surf(ace)-act(ive) + a(ge)nt.]

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Thesaurus

Legend: **Synonyms** **Related Words** **Antonyms**

Noun 1. surfactant - a substance capable of reducing the surface tension of a liquid in which it is dissolved

surface-active agent, wetter, wetting agent

emulsifier - a surface-active agent that promotes the formation of an emulsion

chemical agent - an agent that produces chemical reactions

detergent - a surface-active chemical widely used in industry and laundering

Mentioned in

No references found

12

References in classic literature

No references found

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surface-to-air missile site
surface-to-air missile system
surface-to-air weapon

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Surfaced Four
Sides (lumber)
Surfaced One



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→ **soap** ¹ (sōp)
n.

1. A cleansing agent, manufactured in bars, granules, flakes, or liquid form, made from a mixture of the sodium salts of various fatty acids of natural oils and fats.
2. A metallic salt of a fatty acid, as of aluminum or iron.
3. *Slang* Money, especially that which is used for bribery.
4. A soap opera.

tr.v. **soaped**, **soap-ing**, **soaps**

1. To treat or cover with or as if with soap.
2.
 - a. *Informal* To softsoap; cajole.
 - b. *Slang* To bribe.

Idiom:

no soap Slang

1. Not possible or permissible.
2. Unsuccessful; futile.

[Middle English sope, from Old English sāpe.]

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Thesaurus

Legend: Synonyms Related Words Antonyms

Noun 1. soap - a cleansing agent made from the salts of vegetable or animal fats

bar soap - soap in the form of a bar

castile soap - a good hard soap made from olive oil and sodium hydroxide

cleanser, cleanser, cleansing agent - a preparation used in cleaning something





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→ **de-ter-gent** ¹ (dī-tŭr'jənt)

n.

A cleansing substance that acts similarly to soap but is made from chemical compounds rather than fats and lye.

adj.

Having cleansing power.

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Thesaurus

Legend: [Synonyms](#) [Related Words](#) [Antonyms](#)

Noun 1. detergent - a surface-active chemical widely used in industry and laundering

[anionic](#), [anionic detergent](#), [non-ionic detergent](#) - a class of synthetic detergents in which the molecules do not ionize in aqueous solutions
[cationic detergent](#), [invert soap](#) - a class of synthetic detergents in which the surface-active part of the molecule is the cation

[SLS](#), [sodium lauryl sulfate](#), [sodium lauryl sulphate](#) - a caustic detergent useful for removing grease; although commonly included in personal care items (shampoos and toothpastes etc.) it can irritate skin and should not be swallowed

[surface-active agent](#), [surfactant](#), [wetter](#), [wetting agent](#) - a substance capable of reducing the surface tension of a liquid in which it is dissolved

2. detergent - a cleansing agent that differs from soap but can also emulsify oils and hold dirt in suspension

[cleaner](#), [cleanser](#), [cleansing agent](#) - a preparation used in cleaning something

[dishwasher detergent](#), [dishwashing detergent](#), [dishwashing liquid](#) - a low-sudsing detergent designed for use in dishwashers

[laundry detergent](#) - any of various detergents designed for use in a washing machine for

